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6 Attorneys for Defendants  
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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 ARASH BEHZAD,  
12 [A046 770 788]

Plaintiff,

13 v.  
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15 PAUL M. PIERRE, District Director,  
San Diego District, U.S. Citizenship  
and Immigration Services, et al.,  
16

Defendants.  
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No. 08cv0222 IEG (AJB)

ANSWER TO COMPLAINT

18 COME NOW the Defendants, by and through their attorneys, Karen P. Hewitt,  
19 United States Attorney, and Samuel W. Bettwy, Assistant United States Attorney, and  
20 hereby file this Answer to Plaintiff's Complaint:

21 1. Answering the first and third sentences of Paragraph 1 of the Complaint,  
22 Defendants admit the substantial truth of the allegations contained therein, except that  
23 CIS records reflect that the naturalization application was filed on August 30, 2004.  
24 Answering the second sentence of Paragraph 1 of the Complaint, Defendants allege  
25 that they are without knowledge or information sufficient to form a belief as to the  
26 truth of the allegations therein contained, and based thereon, deny, generally and  
27 specifically, each, all and every allegation therein.

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1           2. Answering Paragraph 2 of the Complaint, Defendants admit the substantial  
2 truth of the allegations contained therein, except that, regarding allegations  
3 concerning applicable law, Defendants affirmatively allege that such allegations  
4 present legal conclusions and questions of law to be determined solely by the Court,  
5 to which no answer is required; to the extent that an answer is required, such  
6 allegations are denied.

7           3. Answering Paragraph 3 of the Complaint, Defendants deny each, all and  
8 every allegation therein insofar as Plaintiff's naturalization application will be  
9 adjudicated by the San Diego CIS office once the FBI has completed its background  
10 investigation. Paul M. Pierre has been substituted for Jane Arellano as lead party  
11 Plaintiff, in his official capacity only.

12           4. Answering Paragraph 4 of the Complaint, Defendants affirmatively allege  
13 that said paragraph contains allegations that present legal conclusions and questions  
14 of law to be determined solely by the Court, to which no answer is required. To the  
15 extent that an answer is required, each, all and every allegation contained in said  
16 paragraph is denied, except that it is admitted that CIS administers certain portions  
17 of the Immigration and Nationality Act of 1952, as amended.

18           5. Answering Paragraph 5 of the Complaint, Defendants affirmatively allege  
19 that said paragraph contains allegations that present legal conclusions and questions  
20 of law to be determined solely by the Court, to which no answer is required. To the  
21 extent that an answer is required, each, all and every allegation contained in said  
22 paragraph is denied, except that Defendants are proceeding as if the Court has taken  
23 exclusive final adjudicative jurisdiction under 8 U.S.C. § 1447(b).

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1           6. Answering Paragraph 6 of the Complaint, Defendants affirmatively allege  
2 that said paragraph contains jurisdictional allegations that present legal conclusions  
3 and questions of law to be determined solely by the Court, to which no answer is  
4 required. To the extent that an answer is required, each, all and every allegation  
5 contained in said paragraph is denied.

6           7. Answering Paragraph 7 of the Complaint, Defendants deny each, all and  
7 every allegation therein insofar as this case has been transferred to this judicial  
8 district based upon a determination or stipulation that venue lies within this judicial  
9 district.

10          8. Answering Paragraph 8 of the Complaint, Defendants deny each, all and  
11 every allegation therein, except that it is admitted that the naturalization application  
12 was filed in August 2004, that the initial interview was conducted on or about April  
13 4, 2004, and that the naturalization application has not yet been adjudicated.

14          9. Answering the first sentence of Paragraph 9 of the Complaint, Defendants  
15 allege that they are without knowledge or information sufficient to form a belief as  
16 to the truth of the allegations therein contained, and based thereon, deny, generally  
17 and specifically, each, all and every allegation therein. Answering the second  
18 sentence of Paragraph 9 of the Complaint, Defendants deny each, all and every  
19 allegation therein.

20          10. Answering Paragraph 10 of the Complaint, Defendants deny each, all and  
21 every allegation therein, except that it is admitted that Defendants have not completed  
22 adjudication of the naturalization application.

23          11. Answering Paragraph 11 of the Complaint, Defendants deny each, all and  
24 every allegation therein, except that it is admitted that CIS has adjudicated  
25 naturalization applications which were filed subsequent to Plaintiff's and/or whose  
26 initial interviews were subsequent to Plaintiff's initial interview.

1 12. Answering Paragraph 12 of the Complaint, Defendants deny each, all and  
2 every allegation therein.

3 13. Answering Paragraph 13 of the Complaint, Defendants deny each, all and  
4 every allegation therein.

5 14. Answering Paragraph 14 of the Complaint, Defendants deny each, all and  
6 every allegation therein.

7 15. Answering Paragraph 15 of the Complaint, Defendants deny each, all and  
8 every allegation therein.

9 Defendants deny all other allegations of Plaintiff's Complaint not specifically  
10 admitted.

11 The remainder of Plaintiff's Complaint represents a Prayer for Relief to which  
12 no responsive pleading is required. To the extent that the Prayer for Relief is deemed  
13 to allege facts to which a response is required, Defendants deny the allegations.

14 AFFIRMATIVE AND OTHER DEFENSES

15 1. Defendant U.S. Citizenship and Immigration Services ("CIS") is  
16 adjudicating Plaintiff's naturalization application in the normal course of business.

17 2. Defendants have failed to state a cause of action for which relief can be  
18 granted in that CIS is statutorily prohibited from finally adjudicating Plaintiff's  
19 naturalization application before FBI has completed its background investigation, and  
20 the Court cannot not and/or should not order the FBI to complete its investigation by  
21 a date certain.

22 3. Proper venue, sufficient process and/or sufficient service of process are/is  
23 not waived.

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1 WHEREFORE, the Defendants pray that Plaintiff take nothing by reason of his  
2 suit herein, that judgment be rendered in favor of said Defendants, for costs of suit  
3 herein incurred, and for such other and further relief as this Court may deem proper.

4 DATED: March 10, 2008

5 KAREN P. HEWITT  
6 United States Attorney

7 *s/ Samuel W. Bettwy*

8 SAMUEL W. BETTWY  
9 Assistant U.S. Attorney  
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